

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KYONG MI HONG,

Plaintiff,

-against-

JUSTIN SUN; TRON FOUNDATION
LIMITED; BITTORRENT FOUNDATION
LTD.,

Defendants.

23-CV-5500 (LTS)

ORDER DIRECTING PAYMENT OF FEES
OR AMENDED IFP APPLICATION

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff brings this action *pro se*. For the reasons set forth below, the Court directs Plaintiff, within 30 days of the date of this order, to either pay the \$402.00 in fees required to file a civil action in this court,¹ or if she seeks to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees, to submit an amended IFP application.

BACKGROUND

Plaintiff initially filed this action *pro se* on June 27, 2023. On October 4, 2023, after the Court denied her application to proceed IFP, Plaintiff paid the \$402.00 in filing fees for this action.

On October 9, 2023, Plaintiff filed a letter in which she requested a refund of the filing fees, stated that a judge does not need to review her “papers,” and expressed concerns about publicly litigating this case. (ECF 12.) By order dated October 13, 2023, the Court construed that letter as a motion to voluntarily withdraw this action under Federal Rule of Civil Procedure

¹ On December 1, 2023, the fees required to bring a civil action in this court increased to \$405.00. Because Plaintiff originally filed this action on June 27, 2023, the old fee schedule applies.

41(a), and as a request for the refund of the \$402.00 in filing fees, and granted the motion and request. (ECF 13.) Because Plaintiff's letters are exceeding confusing, the Court also granted Plaintiff 30 days' leave to submit a letter clearly stating that she would like to proceed with this action.

Because Plaintiff did not respond to the Court's October 13, 2023 order stating that she wished to continue litigating this action, by order dated November 16, 2023, the Court dismissed this action without prejudice under Fed. R. Civ. P. 41(a), and directed the Clerk of Court to refund Plaintiff the \$402.00 filing fee. (ECF 14.)

On April 25, 2024, Plaintiff filed a letter which suggested she may not have intended to voluntarily dismiss the action. (ECF 15.) By order dated September 24, 2024, the Court construed that letter as a motion seeking relief from judgment or order under Rule 60(b) of the Federal Rules of Civil Procedure, granted the motion, and directed the Clerk of Court to vacate the order of dismissal and reopen the action for further proceedings. (ECF 16.)

DISCUSSION

Although Plaintiff had previously paid the filing fees for this action, the Clerk of Court refunded Plaintiff the money when the Court granted her request to voluntarily dismiss this action. In order to proceed with this reopened action, within 30 days of the date of this order, Plaintiff must resubmit the \$402.00 in fees required to bring a civil action, or, if her financial circumstances have changed since her previous IFP application, she may submit an amended IFP application alleging facts demonstrating that she is unable to pay the fees.

No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

CONCLUSION

The Court directs Plaintiff, within 30 days of the date of this order, to either pay the \$402.00 in fees or, if her financial circumstances have changed since she submitted her previous IFP application, submit attached amended IFP application. If Plaintiff fails to comply with this order in the time allowed, the action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: September 27, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge